

REFERENCE TITLE: **licensing; loan originators**

State of Arizona  
Senate  
Forty-eighth Legislature  
Second Regular Session  
2008

## **SB 1203**

Introduced by  
Senator Tibshraeny

### **AN ACT**

AMENDING SECTIONS 6-126, 6-901, 6-903, 6-909, 6-943 AND 6-947, ARIZONA REVISED STATUTES; CHANGING THE DESIGNATION OF TITLE 6, CHAPTER 9, ARIZONA REVISED STATUTES, TO "MORTGAGE BROKERS, MORTGAGE BANKERS AND LOAN ORIGINATORS"; AMENDING TITLE 6, CHAPTER 9, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 4; RELATING TO LOAN ORIGINATORS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 6-126, Arizona Revised Statutes, is amended to  
3 read:

4 6-126. Application fees for financial institutions and  
5 enterprises

6 A. The following nonrefundable fees are payable to the department with  
7 the filing of the following applications:

8 1. To apply for a banking permit, ten thousand dollars.

9 2. To apply for an amendment to a banking or savings and loan  
10 association permit, one thousand dollars.

11 3. To establish each banking branch office, one thousand five hundred  
12 dollars.

13 4. To move a banking office to other than an established office of a  
14 bank, one thousand dollars.

15 5. To apply for a savings and loan association permit, ten thousand  
16 dollars.

17 6. To establish each savings and loan association branch office, one  
18 thousand five hundred dollars.

19 7. To move an office of a savings and loan association to other than  
20 an established office, one thousand dollars.

21 8. To organize and establish a credit union, one hundred dollars.

22 9. To establish each credit union branch or credit union freestanding  
23 automated teller machine or to move a credit union office to other than an  
24 established office of a credit union, two hundred fifty dollars.

25 10. To organize and establish any other financial institutions for  
26 which an application or investigation fee is not otherwise provided by law,  
27 two thousand five hundred dollars.

28 11. To acquire control of a financial institution, other than a  
29 consumer lender, five thousand dollars.

30 12. To apply for a trust company license, five thousand dollars.

31 13. To apply for a commercial mortgage banker, mortgage banker, escrow  
32 agent or consumer lender license, one thousand five hundred dollars.

33 14. To apply for a mortgage broker, sales finance company or debt  
34 management company license, eight hundred dollars.

35 15. To apply for a collection agency license, one thousand five hundred  
36 dollars.

37 16. To apply for a deferred presentment company license, one thousand  
38 dollars.

39 17. To apply for a motor vehicle dealer license, three hundred dollars.

40 18. To apply for a branch office of an escrow agent, consumer lender,  
41 commercial mortgage banker, mortgage banker, trust company, money  
42 transmitter, collection agency or deferred presentment company, five hundred  
43 dollars.

44 19. To apply for a branch office of a mortgage broker, debt management  
45 company or sales finance company, two hundred fifty dollars.

- 1           20. To apply for approval of the articles of incorporation of a  
2 business development corporation, five hundred dollars.
- 3           21. To establish each freestanding automated teller machine, not  
4 otherwise provided by law, five hundred dollars.
- 5           22. To apply for approval for the merger or consolidation of two or  
6 more financial institutions, five thousand dollars per institution.
- 7           23. To apply for approval to convert from a national bank or federal  
8 savings and loan charter to a state chartered institution, five thousand  
9 dollars.
- 10          24. To apply for approval to convert from a federal credit union to a  
11 state chartered credit union, one thousand dollars.
- 12          25. To apply for approval to merge or consolidate two or more credit  
13 unions, five hundred dollars per credit union.
- 14          26. To move an established office of an enterprise to other than an  
15 established office, fifty dollars.
- 16          27. To issue a duplicate or replace a lost enterprise's license, one  
17 hundred dollars.
- 18          28. To change a responsible person on a mortgage broker's, commercial  
19 mortgage banker's or a mortgage banker's license, two hundred fifty dollars.
- 20          29. To change an active manager on a collection agency license or a  
21 manager of a money transmitter branch office license, two hundred fifty  
22 dollars.
- 23          30. To change the licensee name on a financial institution or  
24 enterprise license, two hundred fifty dollars.
- 25          31. To apply for a money transmitter license, one thousand five hundred  
26 dollars plus twenty-five dollars for each branch office and authorized  
27 delegate to a maximum of four thousand five hundred dollars.
- 28          32. To acquire control of any money transmitter or controlling person  
29 pursuant to chapter 12 of this title, two thousand five hundred dollars.
- 30          33. To receive the following publications:  
31           (a) Quarterly bank and savings and loan statement of condition, not  
32 more than ten dollars per copy.  
33           (b) Monthly summary of actions report, not more than five dollars per  
34 copy.  
35           (c) A list of licensees, a monthly pending actions report and all  
36 other in-house prepared reports or listings made available to the public, not  
37 more than one dollar per page.
- 38          34. TO APPLY FOR A LOAN ORIGINATOR LICENSE, AN AMOUNT TO BE DETERMINED  
39 BY THE SUPERINTENDENT.
- 40          B. On issuance of a license or permit for a financial institution or  
41 enterprise, the superintendent shall collect the first year's annual  
42 assessment or renewal fee for the financial institution or enterprise  
43 prorated according to the number of quarters remaining until the date of the  
44 next annual assessment or renewal.

- 1 C. The following annual renewal fees shall be paid each year:  
2 1. For an escrow agent, or trust company, one thousand dollars plus  
3 two hundred fifty dollars for each branch office.  
4 2. For a debt management company or sales finance company, five  
5 hundred dollars plus two hundred dollars for each branch office.  
6 3. For a collection agency, six hundred dollars plus two hundred  
7 dollars for each branch office.  
8 4. For a motor vehicle dealer, one hundred fifty dollars.  
9 5. For an inactive mortgage broker, two hundred fifty dollars.  
10 6. For a mortgage banker that negotiates or closes in the aggregate  
11 one hundred loans or less in the immediately preceding calendar year, seven  
12 hundred fifty dollars, and for a mortgage banker that negotiates or closes in  
13 the aggregate over one hundred loans in the immediately preceding calendar  
14 year, one thousand two hundred fifty dollars. In addition, a mortgage banker  
15 shall pay two hundred fifty dollars for each branch office.  
16 7. For a commercial mortgage banker, one thousand two hundred fifty  
17 dollars. In addition, a commercial mortgage banker shall pay two hundred  
18 fifty dollars for each branch office.  
19 8. For a mortgage broker that negotiates or closes in the aggregate  
20 fifty loans or less in the immediately preceding calendar year, two hundred  
21 fifty dollars and for a mortgage broker that negotiates or closes in the  
22 aggregate more than fifty loans in the immediately preceding calendar year,  
23 five hundred dollars. In addition, a mortgage broker shall pay two hundred  
24 dollars for each branch office.  
25 9. For a consumer lender, one thousand dollars plus two hundred  
26 dollars for each branch office.  
27 10. For a money transmitter, five hundred dollars plus twenty-five  
28 dollars for each branch office and each authorized delegate to a maximum of  
29 two thousand five hundred dollars.  
30 11. For a deferred presentment company, four hundred dollars. In  
31 addition, a deferred presentment company shall pay two hundred dollars for  
32 each branch office.  
33 12. FOR A LOAN ORIGINATOR, AN AMOUNT TO BE DETERMINED BY THE  
34 SUPERINTENDENT.  
35 13. FOR AN INACTIVE STATUS LOAN ORIGINATOR, AN AMOUNT TO BE DETERMINED  
36 BY THE SUPERINTENDENT.  
37 14. FOR A LOAN ORIGINATOR LICENSE TRANSFER, AN AMOUNT TO BE DETERMINED  
38 BY THE SUPERINTENDENT.  
39 D. The license, renewal or branch office permit fee for a premium  
40 finance company for each calendar year or part thereof shall not be less than  
41 one hundred dollars or more than three hundred dollars as set by the  
42 superintendent. If the license is issued or the branch office is opened  
43 after June 30 in any year, the fees shall not be less than fifty dollars or  
44 more than one hundred fifty dollars for that year.



1           1. Have not less than three years' experience as a mortgage broker,  
2 or equivalent lending experience in a related business during the five years  
3 immediately preceding the time of application.

4           2. Have satisfactorily completed a course of study approved by the  
5 superintendent during the three years immediately preceding the time of  
6 application.

7           3. Have passed a mortgage broker's test, pursuant to section 6-908,  
8 not more than one year before the granting of the license.

9           C. A person shall make an application for a license or for a renewal  
10 of a license in writing on the forms, in the manner and accompanied by the  
11 information prescribed by the superintendent. The superintendent may require  
12 additional information on the experience, background, honesty, truthfulness,  
13 integrity and competency of the applicant and any responsible individual  
14 designated by the applicant. If the applicant is a person other than a  
15 natural person, the superintendent may require information as to the honesty,  
16 truthfulness, integrity and competency of any officer, director, shareholder  
17 or other interested party of the association, corporation or group.

18           D. The nonrefundable application fee and annual renewal fee are as  
19 prescribed in section 6-126. The nonrefundable application fee shall  
20 accompany each application for an original license only. The superintendent  
21 shall deposit, pursuant to sections 35-146 and 35-147, the monies in the  
22 state general fund.

23           E. If a licensee is a person other than a natural person, the license  
24 issued to it entitles all officers, directors, members, partners, trustees  
25 and employees of the licensed corporation, partnership, association or trust  
26 to engage in the mortgage business if one officer, director, member, partner,  
27 employee or trustee of the person is designated in the license as the  
28 individual responsible for the person under this article. If a licensee is a  
29 natural person, the license entitles all employees of the licensee to engage  
30 in the mortgage business. If the natural person is not a resident of this  
31 state, an employee of the licensee shall be designated in the license as the  
32 individual responsible for the licensee under the provisions of this article.  
33 For THE purposes of this subsection, an employee does not include an  
34 independent contractor. A responsible individual shall be a resident of this  
35 state, shall be in active management of the activities of the licensee  
36 governed by this article and shall meet the qualifications set forth in  
37 subsection B of this section for a licensee.

38           F. A licensee shall notify the superintendent that its responsible  
39 individual will cease to be in active management of the activities of the  
40 licensee within ten days of learning that fact. The licensee has ninety days  
41 after the notification is received by the superintendent within which to  
42 replace the responsible individual with a qualified replacement and to so  
43 notify the superintendent. If the license is not placed under active  
44 management of a qualified responsible individual and if notice is not given

1 to the superintendent within the ninety day period, the license of the  
2 licensee expires.

3 G. Every person licensed as a mortgage broker shall deposit with the  
4 superintendent, before doing business as a mortgage broker, a bond executed  
5 by the licensee as principal and a surety company authorized to do business  
6 in this state as surety. The bond shall be conditioned on the faithful  
7 compliance of the licensee, including ~~his~~ THE LICENSEE'S directors, officers,  
8 members, partners, trustees and employees, with this article. The bond is  
9 payable to any person injured by the wrongful act, default, fraud or  
10 misrepresentation of the licensee or ~~his~~ THE LICENSEE'S employees and to this  
11 state for the benefit of the person injured. Only one bond is required for  
12 any person, firm, association or corporation irrespective of the number of  
13 officers, directors, members, partners or trustees who are employed by or are  
14 members of such firm, association or corporation. No suit may be commenced  
15 on the bond after the expiration of one year following the commission of the  
16 act on which the suit is based, except that claims for fraud or mistake are  
17 limited to the limitation period provided in section 12-543, paragraph 3. If  
18 an injured person commences an action for a judgment to collect from the  
19 bond, the injured person shall notify the superintendent of the action in  
20 writing at the time of the commencement of the action and shall provide  
21 copies of all documents relating to the action to the superintendent on  
22 request.

23 H. The bond required by this section shall be ten thousand dollars for  
24 licensees whose investors are limited solely to institutional investors, and  
25 fifteen thousand dollars for licensees whose investors include any  
26 noninstitutional investors.

27 I. For THE purposes of subsection H of this section:

28 1. "Institutional investor" means a state or national bank, a state or  
29 federal savings and loan association, a state or federal savings bank, a  
30 state or federal credit union, a federal government agency or  
31 instrumentality, a quasi-federal government agency, a financial enterprise, a  
32 licensed real estate broker or salesman, a profit sharing or pension trust,  
33 or an insurance company.

34 2. "Investor" means any person who directly or indirectly provides TO  
35 A MORTGAGE BROKER funds ~~to a mortgage broker which funds~~ THAT are, or are  
36 intended to be, used in the making of a loan, and any person who purchases a  
37 loan, or any interest therein, from a mortgage broker or in a transaction  
38 that has been directly or indirectly arranged or negotiated by a mortgage  
39 broker.

40 J. Notwithstanding section 35-155, in lieu of the bond described in  
41 this section, an applicant for a license or a licensee may deposit with the  
42 superintendent a deposit in the form of cash or alternatives to cash in the  
43 same amount as the bond required under subsection G of this section. The  
44 superintendent may accept any of the following as an alternative to cash:

1           1. Certificates of deposits or investment certificates ~~which~~ THAT are  
2 payable or assigned to the state treasurer, issued by banks or savings banks  
3 doing business in this state and fully insured by the federal deposit  
4 insurance corporation or any successor institution.

5           2. Certificates of deposit, investment certificates or share accounts  
6 ~~which~~ THAT are payable or assigned to the state treasurer, issued by a  
7 savings and loan association doing business in this state and fully insured  
8 by the federal deposit insurance corporation or any successor institution.

9           3. Certificates of deposit, investment certificates or share accounts  
10 ~~which~~ THAT are payable or assigned to the state treasurer, issued by a credit  
11 union doing business in this state and fully insured by the national credit  
12 union administration or any successor institution.

13           K. The superintendent shall deposit the cash or alternatives to cash  
14 received under this section with the state treasurer. The state treasurer  
15 shall hold the cash or alternatives to cash in the name of this state to  
16 guarantee the faithful performance of all legal obligations of the person  
17 required to post bond pursuant to this section. The person is entitled to  
18 receive any accrued interest earned from the alternatives to cash. The state  
19 treasurer may impose a fee to reimburse the state treasurer for  
20 administrative expenses. The fee shall not exceed ten dollars for each cash  
21 or alternatives to cash deposit and shall be paid by the applicant or  
22 licensee. The state treasurer may prescribe rules relating to the terms and  
23 conditions of each type of security provided by this section.

24           L. In addition to such other terms and conditions as the  
25 superintendent prescribes by rule or order, the principal amount of the  
26 deposit shall be released only on written authorization of the superintendent  
27 or on the order of a court of competent jurisdiction. The principal amount  
28 of the deposit shall not be released before the expiration of three years  
29 from the first to occur of any of the following:

- 30           1. The date of substitution of a bond for a cash alternative.
- 31           2. The surrender of the license.
- 32           3. The revocation of the license.
- 33           4. The expiration of the license.

34           M. A licensee or an employee of the licensee shall not advertise for  
35 or solicit mortgage business in any manner without using the name and license  
36 number as issued on the mortgage broker's principal place of business  
37 license, except that a licensee may employ or refer to the commonly used name  
38 and any trademarks or service marks of any affiliate. If a license is issued  
39 in the name of a natural person, nothing in the advertising or solicitation  
40 may imply the license is in the name of another person or entity. For the  
41 ~~purpose~~ PURPOSES of this subsection, "advertise" does not include business  
42 cards, radio and television advertising directed at national or regional  
43 markets and promotional items except if those items contain rates or terms on  
44 which a mortgage loan may be obtained.

1 N. A licensee shall not employ any person unless the licensee:  
2 1. Conducts a reasonable investigation of the background, honesty,  
3 truthfulness, integrity and competency of the employee before hiring.  
4 2. Keeps a record of the investigation for not less than two years  
5 after termination.  
6 O. A license is not transferable or assignable and control of a  
7 licensee may not be acquired through a stock purchase or other device without  
8 the prior written consent of the superintendent. Written consent shall not  
9 be given if the superintendent finds that any of the grounds for denial,  
10 revocation or suspension of a license as set forth in section 6-905 are  
11 applicable to the acquiring person. For the ~~purpose~~ PURPOSES of this  
12 subsection, "control" means the power to vote more than twenty per cent of  
13 outstanding voting shares of a licensed corporation, partnership, association  
14 or trust.  
15 P. The licensee is liable for any damage caused by any of ~~his~~ THE  
16 LICENSEE'S employees while acting as an employee of the licensee.  
17 Q. A licensee shall comply with the requirements of section 6-114  
18 relating to balloon payments.  
19 R. The examination and course of study requirements of this section  
20 shall be waived by the superintendent for any person applying for a license  
21 who, within the six months immediately prior to the submission of the  
22 application, has been a licensee or a responsible person pursuant to this  
23 chapter.  
24 S. IF THE APPLICANT FOR RENEWAL OF A MORTGAGE BROKER LICENSE IS A  
25 NATURAL PERSON, THE APPLICANT SHALL HAVE SATISFACTORILY COMPLETED TWELVE  
26 CONTINUING EDUCATION UNITS BY A CONTINUING EDUCATION PROVIDER APPROVED BY THE  
27 SUPERINTENDENT BEFORE SUBMITTING THE RENEWAL APPLICATION. IF THE APPLICANT  
28 IS OTHER THAN A NATURAL PERSON, THE DESIGNATED RESPONSIBLE INDIVIDUAL SHALL  
29 HAVE SATISFACTORILY COMPLETED TWELVE CONTINUING EDUCATION UNITS BY A  
30 CONTINUING EDUCATION PROVIDER APPROVED BY THE SUPERINTENDENT BEFORE  
31 SUBMITTING THE RENEWAL APPLICATION.  
32 T. A LICENSEE WHO EMPLOYS A LOAN ORIGINATOR SHALL COMPLY WITH SECTION  
33 6-991.03.  
34 Sec. 5. Section 6-909, Arizona Revised Statutes, is amended to read:  
35 6-909. Prohibited acts  
36 A. Except for employment verifications, verifications of mortgages and  
37 loans, and deposit or account verifications, a person, in connection with or  
38 incidental to the making of any mortgage loan, shall not induce, require or  
39 permit any document to be signed by a party to the transaction if such  
40 document contains any blank spaces to be filled in after it has been signed,  
41 except that the party may specifically authorize the licensee or the escrow  
42 agent handling the transaction, in writing, to complete certain blank spaces.  
43 B. A person is not entitled to receive compensation in connection with  
44 arranging for or negotiating a mortgage loan if such person is not licensed  
45 pursuant to this article. A mortgage broker shall not pay compensation to,

1 contract with or employ as an independent contractor a person who is acting  
2 as a mortgage broker or mortgage banker but who is not licensed under this  
3 chapter.

4 C. A person engaged in the mortgage business shall not knowingly  
5 advertise, display, distribute, broadcast or televise, or cause or permit to  
6 be advertised, displayed, distributed, broadcast or televised, in any manner  
7 whatever, any false, misleading or deceptive statement or representation with  
8 regard to the rates, terms or conditions for a mortgage loan. The charges or  
9 rates of charge, if stated, shall be set forth in such manner as to prevent  
10 misunderstanding by prospective borrowers.

11 D. A mortgage broker shall not request or require a person seeking a  
12 mortgage loan on real property designed principally for the occupancy of from  
13 one to four families in an amount of two hundred thousand dollars or less to  
14 enter into an agreement ~~which~~ THAT prohibits the person from seeking the loan  
15 from another source.

16 E. A mortgage broker ~~shall not~~, except in good faith, SHALL NOT delay  
17 or cause delay in the closing of a loan that results in increased costs to a  
18 borrower.

19 F. A mortgage broker shall not record or cause to be recorded any  
20 document ~~which~~ THAT would give rise to liability under section 33-420.

21 G. A mortgage broker shall not, for compensation, either directly or  
22 indirectly make or negotiate or offer to make or negotiate a loan that is  
23 either:

24 1. Less than five thousand dollars.

25 2. Not secured by a mortgage or deed of trust or other lien interest  
26 in real property.

27 H. A person who is employed by a licensee to act in the capacity of a  
28 mortgage broker shall not be concurrently employed by any other licensee to  
29 act as a mortgage broker, except with the prior written approval of all the  
30 concurrently employing licensees.

31 I. A mortgage broker shall not collect compensation for rendering  
32 services as a real estate broker or real estate salesman unless both of the  
33 following apply:

34 1. The mortgage broker is licensed pursuant to title 32, chapter 20.

35 2. The mortgage broker has disclosed to the person from whom the  
36 compensation is collected that the mortgage broker is receiving compensation  
37 both for mortgage broker services, if applicable, and for real estate broker  
38 or real estate salesman services.

39 J. A licensee shall not accept any assignment of the borrower's wages  
40 or salary in connection with activities governed by this article.

41 K. A mortgage broker shall not receive or disburse monies in servicing  
42 or arranging a mortgage loan except as provided in section 6-906,  
43 subsection C.

1 L. A mortgage broker shall not make a false promise or  
2 misrepresentation or conceal an essential or material fact in the course of  
3 the mortgage broker business.

4 M. A mortgage broker shall not fail to truthfully account for the  
5 monies belonging to a party to a mortgage loan transaction or fail to  
6 disburse monies in accordance with his agreements.

7 N. A mortgage broker shall not engage in illegal or improper business  
8 practices.

9 O. A mortgage broker shall not record a mortgage or deed of trust if  
10 monies are not available for the immediate disbursal to the mortgagor unless,  
11 before that recording, the mortgage broker informs the mortgagor in writing  
12 of a definite date by which payment shall be made and obtains the mortgagor's  
13 written permission for the delay.

14 P. A mortgage broker shall not require a person seeking a loan secured  
15 by real property to obtain property insurance coverage in an amount that  
16 exceeds the replacement cost of the improvements as established by the  
17 property insurer.

18 Q. A MORTGAGE BROKER MUST REASONABLY SUPERVISE THE ACTIVITIES OF A  
19 LOAN ORIGINATOR WHO IS LICENSED PURSUANT TO ARTICLE 4 OF THIS CHAPTER AND WHO  
20 IS EMPLOYED BY THE MORTGAGE BROKER.

21 Sec. 6. Section 6-943, Arizona Revised Statutes, is amended to read:

22 6-943. Licensing of mortgage bankers required; qualifications;  
23 application; bond; fees; renewal

24 A. A person shall not act as a mortgage banker if he is not licensed  
25 under this article.

26 B. The superintendent shall not grant a mortgage banker's license to a  
27 person, other than a natural person, who is not registered to do business in  
28 this state on the date of application for a license. The superintendent  
29 shall not issue a mortgage banker's license or a renewal of a license to an  
30 applicant unless the applicant meets all of the requirements prescribed in  
31 subsection C of this section. The superintendent shall determine whether the  
32 applicant meets the requirements based on the application, and evidence  
33 presented at a hearing, if any, or any other evidence that the superintendent  
34 may have regarding qualifications of the applicant.

35 C. In order to qualify for a mortgage banker license or a renewal of a  
36 license an applicant shall:

37 1. Have not fewer than three years' experience in the business of  
38 making mortgage banking loans or equivalent lending experience in a related  
39 business. If the applicant is a person other than a natural person, the  
40 responsible individual shall meet this requirement.

41 2. Have engaged or intend to engage in the business of making mortgage  
42 loans or mortgage banking loans.

43 3. Either:

44 (a) Be authorized to do business with any of the following:

45 (i) The federal housing administration.

1 (ii) The veterans administration.  
2 (iii) The federal national mortgage association.  
3 (iv) The federal home loan mortgage corporation.  
4 (b) Notwithstanding paragraph 5 of this subsection, at all times have  
5 and maintain a net worth of not less than two hundred fifty thousand dollars.  
6 4. Provide the superintendent with a current audited financial  
7 statement or that of its parent company prepared by an independent certified  
8 public accountant in accordance with generally accepted accounting principles  
9 including:  
10 (a) The certified public accountant's opinion as to the fairness of  
11 the presentation in conformity with generally accepted accounting principles.  
12 (b) A balance sheet prepared within the previous six months and  
13 certified by the licensee. The superintendent may require a more recent  
14 balance sheet.  
15 (c) A statement of operations and retained earnings and a statement of  
16 changes in financial position provided the applicant has commenced  
17 operations.  
18 (d) Notes to the financial statement if applicable.  
19 5. At all times have and maintain a net worth of not less than one  
20 hundred thousand dollars.  
21 D. A person shall make an application for a license or for a renewal  
22 of a license in writing on the forms, in the manner and accompanied by the  
23 information prescribed by the superintendent including the requirements  
24 prescribed in subsection C of this section. The superintendent may require  
25 additional information on the experience, background, honesty, truthfulness,  
26 integrity and competency of the applicant and any responsible individual  
27 designated by the applicant. If the applicant is a person other than a  
28 natural person, the superintendent may require information as to the honesty,  
29 truthfulness, integrity and competency of any officer, director, shareholder,  
30 member, partner, trustee, employee or other interested party of the  
31 association, corporation or group.  
32 E. The nonrefundable application fee and annual renewal fee shall be  
33 as prescribed in section 6-126. The nonrefundable application fee shall  
34 accompany each application for an original license only.  
35 F. If a licensee is a person other than a natural person, the license  
36 issued to it entitles all officers, directors, members, partners, trustees  
37 and employees of the licensed corporation, partnership, association or trust  
38 to engage in the mortgage banking business if one officer, director, member,  
39 partner, employee or trustee of the person is designated in the license as  
40 the individual responsible for the person under this article. If a licensee  
41 is a natural person, the license entitles all employees of the licensee to  
42 engage in the mortgage banking business. If the natural person is not a  
43 resident of this state, an employee of the licensee shall be designated in  
44 the license as the individual responsible for the licensee under ~~the~~  
45 ~~provisions of~~ this article. For the purposes of this article an employee

1 does not include an independent contractor. For the purposes of this  
 2 article, a responsible individual shall be a resident of this state, shall be  
 3 in active management of the activities of the licensee governed by this  
 4 article and shall have not less than three years' experience in the business  
 5 of making mortgage banking loans or equivalent experience in a related  
 6 business.

7 G. A licensee shall notify the superintendent that its responsible  
 8 individual will cease to be in active management of the licensee within ten  
 9 days of learning that fact. Not more than ninety days after the  
 10 superintendent receives the notice, the licensee shall place itself under the  
 11 active management of a qualified responsible person and notify the  
 12 superintendent. If the licensee is not placed under active management of a  
 13 qualified responsible individual and if notice is not received by the  
 14 superintendent within the ninety day period, the license of the licensee  
 15 expires.

16 H. Every person licensed as a mortgage banker shall deposit with the  
 17 superintendent, before doing business as a mortgage banker, a bond executed  
 18 by the licensee as principal and a surety company authorized to do business  
 19 in this state as surety. The bond shall be conditioned on the faithful  
 20 compliance of the licensee, including his directors, officers, members,  
 21 partners, trustees and employees, with this article. Only one bond is  
 22 required for a person, firm, association or corporation irrespective of the  
 23 number of officers, directors, members, partners or trustees who are employed  
 24 by or are members of the firm, association or corporation. The bond is  
 25 payable to any person injured by the wrongful act, default, fraud or  
 26 misrepresentation of the licensee and to this state for the benefit of any  
 27 injured person. The coverage shall be maintained in the minimum amount  
 28 prescribed in this subsection, computed on a base consisting of the total  
 29 assets of the licensee plus the unpaid balance of loans which it has  
 30 contracted to service for others as of the end of the licensee's fiscal year.

31 Base	Minimum Bond
32 Not over \$1,000,000	\$25,000 for the first \$500,000 plus 33 \$5,000 for each \$100,000 or fraction 34 thereof over \$500,000
35 \$1,000,001 to \$10,000,000	\$50,000 plus \$5,000 for each \$1,800,000 36 or fraction thereof over \$1,000,000
37 \$10,000,001 to \$100,000,000	\$75,000 plus \$5,000 for each \$18,000,000 38 or fraction thereof over \$10,000,000
39 \$100,000,001 and over	\$100,000

40 No suit may be commenced on the bond after the expiration of one year  
 41 following the commission of the act on which the suit is based, except that  
 42 claims for fraud or mistake are limited to the limitation period provided in  
 43 section 12-543, paragraph 3. If any injured person commences an action for a  
 44 judgment to collect on the bond, the injured person shall notify the  
 45 superintendent of the action in writing at the time of the commencement of

1 the action and shall provide copies of all documents relating to the action  
2 to the superintendent on request.

3 I. Notwithstanding subsection H of this section, the bond required  
4 shall be twenty-five thousand dollars for licensees whose investors are  
5 limited solely to institutional investors.

6 J. For purposes of subsection I of this section:

7 1. "Institutional investor" means a state or national bank, a state or  
8 federal savings and loan association, a state or federal savings bank, a  
9 state or federal credit union, a federal government agency or  
10 instrumentality, a quasi-federal government agency, a financial enterprise, a  
11 licensed real estate broker or salesman, a profit sharing or pension trust,  
12 or an insurance company.

13 2. "Investor" means any person who directly or indirectly provides  
14 funds to a mortgage banker which funds are, or are intended to be, used in  
15 the making of a loan, and any person who purchases a loan, or any interest  
16 therein, from a mortgage banker or in a transaction that has been directly or  
17 indirectly arranged or negotiated by a mortgage banker.

18 K. Notwithstanding section 35-155, in lieu of the bond described in  
19 this section, an applicant for a license or a licensee may deposit with the  
20 superintendent a deposit in the form of cash or alternatives to cash in the  
21 amount prescribed in subsection H or I of this section, as applicable. The  
22 superintendent may accept any of the following as an alternative to cash:

23 1. Certificates of deposit or investment certificates which are  
24 payable or assigned to the state treasurer, issued by banks or savings banks  
25 doing business in this state and fully insured by the federal deposit  
26 insurance corporation or any successor institution.

27 2. Certificates of deposit, investment certificates or share accounts  
28 which are payable or assigned to the state treasurer, issued by a savings and  
29 loan association doing business in this state and fully insured by the  
30 federal deposit insurance corporation or any successor institution.

31 3. Certificates of deposit, investment certificates or share accounts  
32 which are payable or assigned to the state treasurer, issued by a credit  
33 union doing business in this state and fully insured by the national credit  
34 union administration or any successor institution.

35 L. The superintendent shall deposit the cash or alternatives to cash  
36 received under this section with the state treasurer. The state treasurer  
37 shall hold the cash or alternatives to cash in the name of this state to  
38 guarantee the faithful performance of all legal obligations of the person  
39 required to post bond pursuant to this section. The person is entitled to  
40 receive any accrued interest earned from the alternatives to cash. The state  
41 treasurer may impose a fee to reimburse the state treasurer for  
42 administrative expenses. The fee shall not exceed ten dollars for each cash  
43 or alternatives to cash deposit and shall be paid by the applicant or  
44 licensee. The state treasurer may prescribe rules relating to the terms and  
45 conditions of each type of security provided by this section.

1 M. In addition to such other terms and conditions as the  
2 superintendent prescribes by rule or order, the principal amount of the  
3 deposit shall be released only on written authorization of the superintendent  
4 or on the order of a court of competent jurisdiction. The principal amount  
5 of the deposit shall not be released before the expiration of three years  
6 from the first to occur of any of the following:

- 7 1. The date of substitution of a bond for a cash alternative.
- 8 2. The surrender of the license.
- 9 3. The revocation of the license.
- 10 4. The expiration of the license.

11 N. A licensee or an employee of the licensee shall not advertise for  
12 or solicit mortgage banking business in any manner without using the name and  
13 license number as issued on the mortgage banker's principal place of business  
14 license, except that a licensee may also employ or refer to the commonly used  
15 name and any trademarks or service marks of any affiliate. If a license is  
16 issued in the name of a natural person, nothing in the advertising or  
17 solicitation may imply that the license is in the name of another person or  
18 entity. For the ~~purpose~~ PURPOSES of this subsection, ~~"advertise"~~ does not  
19 include business cards, radio and television advertising directed at national  
20 or regional markets and promotional items except if those items contain rates  
21 or terms on which a mortgage loan or mortgage banking loan may be obtained.

22 O. A licensee shall not employ any person unless the licensee:

- 23 1. Conducts a reasonable investigation of the background, honesty,  
24 truthfulness, integrity and competency of the employee before hiring.
- 25 2. Keeps a record of the investigation for not less than two years  
26 after termination.

27 P. The licensee is liable for any damage caused by any of his  
28 employees while engaged in the business of making mortgage loans or mortgage  
29 banking loans.

30 Q. A licensee shall comply with the requirements of section 6-114  
31 relating to balloon payments.

32 R. Notwithstanding subsection C, paragraph 4 of this section,  
33 licensees and applicants whose own resources are derived exclusively from  
34 correspondent contracts between mortgage bankers and banks, savings banks,  
35 trust companies, savings and loan associations, credit unions, profit sharing  
36 or pension trusts, consumer lenders or insurance companies shall provide the  
37 superintendent with a current financial statement or that of its parent  
38 company prepared in accordance with generally accepted accounting principles  
39 including:

40 1. A balance sheet prepared within the previous six months and  
41 certified by the licensee. The superintendent may require a more recent  
42 balance sheet.

43 2. A statement of operations and retained earnings and a statement of  
44 changes in financial position provided the applicant has commenced  
45 operations.

1           3. Notes to the financial statement if applicable.

2           S. In addition to the grounds specified in section 6-945, subsection  
3 A, failure of a licensee to operate the business of making mortgage loans or  
4 mortgage banking loans for a continuous period of twelve months or more shall  
5 constitute grounds for revocation of such license. The superintendent, upon  
6 good cause shown, may extend the time for operating such business for a  
7 single fixed period which shall not exceed twelve months.

8           T. IF THE APPLICANT FOR RENEWAL OF A MORTGAGE BANKER LICENSE IS A  
9 NATURAL PERSON, THE APPLICANT SHALL HAVE SATISFACTORILY COMPLETED TWELVE  
10 CONTINUING EDUCATION UNITS BY A CONTINUING EDUCATION PROVIDER APPROVED BY THE  
11 SUPERINTENDENT BEFORE SUBMITTING THE RENEWAL APPLICATION. IF THE APPLICANT  
12 IS OTHER THAN A NATURAL PERSON, THE DESIGNATED RESPONSIBLE INDIVIDUAL SHALL  
13 HAVE SATISFACTORILY COMPLETED TWELVE CONTINUING EDUCATION UNITS BY A  
14 CONTINUING EDUCATION PROVIDER APPROVED BY THE SUPERINTENDENT BEFORE  
15 SUBMITTING THE RENEWAL APPLICATION.

16           U. A LICENSEE WHO EMPLOYS A LOAN ORIGINATOR SHALL COMPLY WITH SECTION  
17 6-991.03.

18           Sec. 7. Section 6-947, Arizona Revised Statutes, is amended to read:  
19 6-947. Prohibited acts

20           A. Except for employment verifications and deposit or account  
21 verifications, a person in connection with or incidental to the making of any  
22 mortgage banking loan or mortgage loan shall not induce, require or permit  
23 any document to be signed by a party to the transaction if the document  
24 contains any blank spaces to be filled in after it has been signed, except  
25 that the party may specifically authorize the licensee or the escrow agent  
26 handling the transaction, in writing, to complete blank spaces in certain  
27 documents.

28           B. A person is not entitled to receive compensation in connection with  
29 arranging for or negotiating a mortgage banking loan or mortgage loan if the  
30 person is not licensed pursuant to this article. A mortgage banker shall not  
31 pay compensation to, contract with or employ as an independent contractor a  
32 person who is acting as a mortgage broker or mortgage banker but who is not  
33 licensed under this chapter.

34           C. A mortgage banker may not commingle monies of borrowers or monies  
35 held for the benefit of borrowers with monies of the mortgage banker.

36           D. A person engaged in the mortgage banking business shall not  
37 knowingly advertise, display, distribute, broadcast or televise, or cause or  
38 permit to be advertised, displayed, distributed, broadcast or televised, in  
39 any manner whatever, any false, misleading or deceptive statement or  
40 representation with regard to the rates, terms or conditions for a mortgage  
41 banking loan or mortgage loan. The charges or rates of charge, if stated,  
42 shall be set forth in a clear and concise manner.

43           E. A mortgage banker shall not request or require a person seeking a  
44 mortgage banking loan or mortgage loan, on real property designed principally  
45 for the occupancy of from one to four families, in an amount of two hundred

1 thousand dollars or less to enter into an agreement which prohibits the  
2 person from seeking the loan from another source.

3 F. A mortgage banker shall not, except in good faith, delay or cause  
4 delay in the closing of a loan that results in increased costs to a borrower.

5 G. A mortgage banker shall not record or cause to be recorded any  
6 document which would give rise to liability under section 33-420.

7 H. A person who is employed by a licensee to act in the capacity of a  
8 mortgage banker shall not be concurrently employed by any other licensee to  
9 act in the capacity of a mortgage banker, except with the prior written  
10 approval of all such concurrently employing licensees.

11 I. A mortgage banker shall not collect compensation for rendering  
12 services as a real estate broker or real estate salesman unless both of the  
13 following apply:

14 1. The mortgage banker is licensed pursuant to title 32, chapter 20.

15 2. The mortgage banker has disclosed to the person from whom the  
16 compensation is collected that the mortgage banker is receiving compensation  
17 both for mortgage banker services, if applicable, and for real estate broker  
18 or real estate salesman services.

19 J. A licensee shall not accept any assignment of the borrower's wages  
20 or salary in connection with activities governed by this article.

21 K. A mortgage banker shall not, for compensation, either directly or  
22 indirectly make or negotiate or offer to make or negotiate a loan of money in  
23 an amount of ten thousand dollars or less that is not secured by a mortgage  
24 or deed of trust or other lien interest in real property.

25 L. A mortgage banker shall not make a false promise or  
26 misrepresentation or conceal an essential or material fact in the course of  
27 the mortgage banker business.

28 M. A mortgage banker shall not fail to truthfully account for the  
29 monies belonging to a party to a mortgage loan or mortgage banking loan  
30 transaction or fail to disburse monies in accordance with his agreements.

31 N. A mortgage banker shall not record a mortgage or deed of trust if  
32 monies are not available for the immediate disbursal to the mortgagor unless,  
33 before that recording, the mortgage banker informs the mortgagor in writing  
34 of a definite date by which payment shall be made and obtains the mortgagor's  
35 written permission for the delay.

36 O. A mortgage banker shall not require a person seeking a loan secured  
37 by real property to obtain property insurance coverage in an amount that  
38 exceeds the replacement cost of the improvements as established by the  
39 property insurer.

40 P. A MORTGAGE BANKER MUST REASONABLY SUPERVISE THE ACTIVITIES OF A  
41 LOAN ORIGINATOR WHO IS LICENSED PURSUANT TO ARTICLE 4 OF THIS CHAPTER AND WHO  
42 IS EMPLOYED BY THE MORTGAGE BANKER.

1           Sec. 8. Title 6, chapter 9, Arizona Revised Statutes, is amended by  
2 adding article 4, to read:

3                                   ARTICLE 4. LOAN ORIGINATORS

4           6-991. Definitions

5           IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

6           1. "ADMINISTRATIVE OR CLERICAL TASKS" MEANS THE RECEIPT, COLLECTION  
7 AND DISTRIBUTION OF INFORMATION COMMON FOR THE PROCESSING OF A LOAN IN THE  
8 MORTGAGE INDUSTRY OR COMMUNICATION WITH A BORROWER TO OBTAIN INFORMATION  
9 NECESSARY FOR THE PROCESSING OF A LOAN. ADMINISTRATIVE OR CLERICAL TASKS DO  
10 NOT INCLUDE HOLDING ONESELF OUT TO THE PUBLIC AS ABLE TO OBTAIN A LOAN.

11           2. "AFFILIATE" MEANS AN ENTITY THAT DIRECTLY OR INDIRECTLY, THROUGH  
12 INTERMEDIARIES, CONTROLS, IS CONTROLLED BY OR IS UNDER COMMON CONTROL WITH  
13 THE ENTITY SPECIFIED.

14           3. "CONTINUING EDUCATION UNIT" MEANS A FIFTY MINUTE PERIOD OF TIME IN  
15 A CONTINUING EDUCATION COURSE THAT RELATES TO THE MORTGAGE INDUSTRY OR TO  
16 MORTGAGE TRANSACTIONS, INCLUDING COURSES TAKEN TO MAINTAIN RECOGNIZED  
17 INDUSTRY DESIGNATIONS.

18           4. "LICENSE" MEANS A LICENSE ISSUED UNDER THIS ARTICLE.

19           5. "LICENSEE" MEANS A PERSON LICENSED UNDER THIS ARTICLE.

20           6. "LOAN ORIGINATOR":

21           (a) MEANS A NATURAL PERSON EMPLOYED BY A MORTGAGE BROKER OR MORTGAGE  
22 BANKER WHO EITHER TAKES A RESIDENTIAL MORTGAGE LOAN APPLICATION FOR A  
23 MORTGAGE BROKER OR MORTGAGE BANKER TO OBTAIN A THIRD PARTY LENDER OR OFFERS  
24 OR NEGOTIATES TERMS OF A MORTGAGE LOAN FOR DIRECT OR INDIRECT COMPENSATION OR  
25 GAIN OR IN THE EXPECTATION OF DIRECT OR INDIRECT COMPENSATION OR GAIN.

26           (b) INCLUDES A PERSON WHO HOLDS HIMSELF OUT TO THE PUBLIC AS ABLE TO  
27 PERFORM ANY OF THESE ACTIVITIES.

28           (c) DOES NOT MEAN A PERSON WHO PERFORMS PURELY ADMINISTRATIVE OR  
29 CLERICAL TASKS AND WHO IS EMPLOYED BY A MORTGAGE BROKER OR MORTGAGE BANKER.

30           7. "MORTGAGE BANKER" MEANS A PERSON WHO IS LICENSED PURSUANT TO  
31 ARTICLE 2 OF THIS CHAPTER.

32           8. "MORTGAGE BROKER" MEANS A PERSON WHO IS LICENSED PURSUANT TO  
33 ARTICLE 1 OF THIS CHAPTER.

34           9. "MORTGAGE LOAN" MEANS A LOAN SECURED BY A MORTGAGE OR DEED OF TRUST  
35 OR ANY LIEN INTEREST ON REAL ESTATE LOCATED IN THIS STATE ESTABLISHED WITH  
36 THE CONSENT OF THE OWNER OF THE REAL ESTATE.

37           6-991.01. Exemptions

38           THIS ARTICLE DOES NOT APPLY TO:

39           1. A NATURAL PERSON EMPLOYED BY A PERSON WHO DOES BUSINESS UNDER ANY  
40 OTHER LAW OF THIS STATE, OR LAW OF ANOTHER STATE WHILE REGULATED BY AN  
41 AGENCY OF THE OTHER STATE OR THE UNITED STATES, RELATING TO BANKS, SAVINGS  
42 BANKS, TRUST COMPANIES, SAVINGS AND LOAN ASSOCIATIONS, PROFIT SHARING AND  
43 PENSION TRUSTS, CREDIT UNIONS, INSURANCE COMPANIES OR CONSUMER LENDERS, OR  
44 RECEIVERSHIPS, INCLUDING DIRECTLY OR INDIRECTLY MAKING, NEGOTIATING OR  
45 OFFERING TO MAKE OR NEGOTIATE A MORTGAGE LOAN, IF THE MORTGAGE TRANSACTIONS

1 ARE REGULATED BY THE OTHER LAW OR ARE UNDER THE JURISDICTION OF A COURT.  
2 EMPLOYEES OF SUBSIDIARIES AND SERVICE CORPORATIONS OF THESE INSTITUTIONS ARE  
3 EXEMPT AND ARE NOT SUBJECT TO THIS ARTICLE IF PREEMPTED BY FEDERAL LAW.

4 2. A PERSON WHO IS LICENSED PURSUANT TO ARTICLE 1, 2 OR 3 OF THIS  
5 CHAPTER.

6 3. A PERSON WHO IS A RESPONSIBLE INDIVIDUAL AS DESCRIBED IN SECTION  
7 6-903 AND WHO DOES NOT ACT AS A LOAN ORIGINATOR PURSUANT TO ARTICLE 1, 2 OR 3  
8 OF THIS CHAPTER.

9 4. AN EMPLOYEE OF A COMMERCIAL MORTGAGE BANKER LICENSED PURSUANT TO  
10 ARTICLE 3 OF THIS CHAPTER.

11 5. AN EMPLOYEE OF A PERSON LICENSED PURSUANT TO THIS CHAPTER IF THE  
12 LICENSEE AFFIRMS IN WRITING TO THE SUPERINTENDENT THAT THE LICENSEE WILL NOT  
13 MAKE OR NEGOTIATE A MORTGAGE LOAN THAT HAS SECURITY IN THE FORM OF A  
14 RESIDENTIAL DWELLING OF ONE TO FOUR UNITS.

15 6. A PERSON WHO, AS SELLER OF REAL PROPERTY, RECEIVES ONE OR MORE  
16 MORTGAGES OR DEEDS OF TRUST AS SECURITY FOR A PURCHASE MONEY OBLIGATION.

17 6-991.02. Prohibited acts

18 BEGINNING JANUARY 1, 2010:

19 1. A LOAN ORIGINATOR ACTING ON THE LOAN ORIGINATOR'S OWN BEHALF SHALL  
20 NOT ACCEPT ANY MONIES OR DOCUMENTS IN CONNECTION WITH AN APPLICATION FOR A  
21 MORTGAGE LOAN.

22 2. A PERSON IS NOT ENTITLED TO RECEIVE COMPENSATION IN CONNECTION WITH  
23 ARRANGING FOR OR NEGOTIATING A MORTGAGE LOAN IF THE PERSON IS NOT LICENSED  
24 PURSUANT TO THIS CHAPTER. NOTWITHSTANDING SECTION 6-984, SUBSECTION B, A  
25 LOAN ORIGINATOR SHALL NOT PAY COMPENSATION TO, CONTRACT WITH OR EMPLOY AS AN  
26 INDEPENDENT CONTRACTOR A PERSON WHO IS ACTING AS A LOAN ORIGINATOR, MORTGAGE  
27 BROKER, MORTGAGE BANKER OR COMMERCIAL MORTGAGE BANKER BUT WHO IS NOT LICENSED  
28 UNDER THIS CHAPTER.

29 3. A LOAN ORIGINATOR ACTING ON THE LOAN ORIGINATOR'S OWN BEHALF SHALL  
30 NOT ADVERTISE, DISPLAY, DISTRIBUTE, BROADCAST OR TELEWISE, OR CAUSE OR PERMIT  
31 TO BE ADVERTISED, DISPLAYED, DISTRIBUTED, BROADCAST OR TELEVISED, IN ANY  
32 MANNER, ANY SOLICITATION OF MORTGAGE BUSINESS.

33 4. A LOAN ORIGINATOR SHALL NOT MAKE, NEGOTIATE OR OFFER TO MAKE OR  
34 NEGOTIATE FOR COMPENSATION, EITHER DIRECTLY OR INDIRECTLY, A LOAN THAT IS  
35 EITHER:

36 (a) LESS THAN FIVE THOUSAND DOLLARS.

37 (b) NOT SECURED BY A MORTGAGE OR DEED OF TRUST OR OTHER LIEN INTEREST  
38 IN REAL PROPERTY.

39 5. A LOAN ORIGINATOR WHO IS EMPLOYED BY A MORTGAGE BROKER OR MORTGAGE  
40 BANKER TO ACT IN THE CAPACITY OF THE MORTGAGE BROKER OR MORTGAGE BANKER SHALL  
41 NOT BE EMPLOYED CONCURRENTLY BY ANY OTHER MORTGAGE BROKER OR MORTGAGE BANKER.

42 6. A LOAN ORIGINATOR SHALL NOT COLLECT COMPENSATION FOR RENDERING  
43 SERVICES AS A REAL ESTATE BROKER OR REAL ESTATE SALESPERSON LICENSED PURSUANT  
44 TO TITLE 32, CHAPTER 20 UNLESS BOTH OF THE FOLLOWING APPLY:

45 (a) THE LOAN ORIGINATOR IS LICENSED PURSUANT TO TITLE 32, CHAPTER 20.

1 (b) THE EMPLOYING MORTGAGE BROKER OR MORTGAGE BANKER HAS DISCLOSED TO  
2 THE PERSON FROM WHOM THE COMPENSATION IS COLLECTED AT THE TIME A MORTGAGE  
3 LOAN APPLICATION IS RECEIVED THAT THE LOAN ORIGINATOR IS RECEIVING  
4 COMPENSATION BOTH FOR MORTGAGE BROKER OR MORTGAGE BANKER SERVICES, IF  
5 APPLICABLE, AND FOR REAL ESTATE BROKER OR REAL ESTATE SALESPERSON SERVICES.

6 7. A LOAN ORIGINATOR SHALL NOT ACCEPT ANY ASSIGNMENT OF THE BORROWER'S  
7 WAGES OR SALARY IN CONNECTION WITH ACTIVITIES GOVERNED BY THIS ARTICLE.

8 8. A LOAN ORIGINATOR SHALL NOT RECEIVE OR DISBURSE MONIES IN SERVICING  
9 OR ARRANGING A MORTGAGE LOAN.

10 9. A LOAN ORIGINATOR SHALL NOT MAKE A FALSE PROMISE OR  
11 MISREPRESENTATION OR CONCEAL AN ESSENTIAL OR MATERIAL FACT IN THE COURSE OF  
12 THE MORTGAGE BROKER OR MORTGAGE BANKER BUSINESS.

13 10. A LOAN ORIGINATOR SHALL NOT FAIL TO TRUTHFULLY ACCOUNT FOR THE  
14 MONIES BELONGING TO A PARTY TO A MORTGAGE LOAN TRANSACTION OR FAIL TO  
15 DISBURSE MONIES IN ACCORDANCE WITH THE EMPLOYING MORTGAGE BROKER OR MORTGAGE  
16 BANKER AGREEMENTS.

17 11. A LOAN ORIGINATOR SHALL NOT ENGAGE IN ILLEGAL OR IMPROPER BUSINESS  
18 PRACTICES.

19 12. A LOAN ORIGINATOR SHALL NOT REQUIRE A PERSON SEEKING A LOAN SECURED  
20 BY REAL PROPERTY TO OBTAIN PROPERTY INSURANCE COVERAGE IN AN AMOUNT THAT  
21 EXCEEDS THE REPLACEMENT COST OF THE IMPROVEMENTS AS ESTABLISHED BY THE  
22 PROPERTY INSURER.

23 13. A LOAN ORIGINATOR SHALL NOT ORIGINATE A MORTGAGE LOAN UNLESS  
24 EMPLOYED BY A MORTGAGE BROKER OR MORTGAGE BANKER.

25 6-991.03. Licensing; renewal; qualifications; application; fees

26 A. BEGINNING JANUARY 1, 2010, A NATURAL PERSON SHALL NOT ACT AS A LOAN  
27 ORIGINATOR UNLESS LICENSED UNDER THIS ARTICLE.

28 B. BEGINNING JANUARY 1, 2010, THE SUPERINTENDENT SHALL NOT GRANT A  
29 LOAN ORIGINATOR LICENSE TO A PERSON, OTHER THAN A NATURAL PERSON. AN  
30 APPLICANT FOR AN ORIGINAL LOAN ORIGINATOR'S LICENSE SHALL HAVE DONE BOTH OF  
31 THE FOLLOWING:

32 1. SATISFACTORILY COMPLETED A COURSE OF STUDY FOR LOAN ORIGINATORS  
33 APPROVED BY THE SUPERINTENDENT DURING THE YEAR IMMEDIATELY PRECEDING THE TIME  
34 OF APPLICATION. THIS PARAGRAPH DOES NOT APPLY IF A PERSON PROVES  
35 SATISFACTORILY TO THE DEPARTMENT THAT THE PERSON HAS AT LEAST THREE YEARS OF  
36 LOAN ORIGINATOR EXPERIENCE THAT IS IMMEDIATELY PRECEDING THE TIME OF  
37 APPLICATION.

38 2. PASSED A LOAN ORIGINATOR'S EXAMINATION PURSUANT TO SECTION 6-991.07  
39 NOT MORE THAN ONE YEAR BEFORE THE GRANTING OF THE LICENSE.

40 C. A PERSON SHALL MAKE AN APPLICATION FOR A LICENSE OR RENEWAL OF A  
41 LICENSE IN WRITING IN THE MANNER PRESCRIBED BY THE SUPERINTENDENT AND  
42 ACCOMPANIED BY THE INFORMATION PRESCRIBED BY THE SUPERINTENDENT.

43 D. BEGINNING JANUARY 1, 2010, AN APPLICANT FOR RENEWAL OF A LOAN  
44 ORIGINATOR LICENSE SHALL HAVE SATISFACTORILY COMPLETED SIX CONTINUING  
45 EDUCATION UNITS BEFORE SUBMITTING THE RENEWAL APPLICATION.

1 E. THE NONREFUNDABLE APPLICATION FEE SHALL ACCOMPANY EACH APPLICATION  
2 FOR AN ORIGINAL LOAN ORIGINATOR LICENSE ONLY.

3 F. A LOAN ORIGINATOR SHALL NOT ADVERTISE FOR OR SOLICIT MORTGAGE  
4 BUSINESS IN ANY MANNER WITHOUT USING THE NAME AND LICENSE NUMBER AS ISSUED ON  
5 THE EMPLOYING MORTGAGE BROKER'S OR MORTGAGE BANKER'S PRINCIPAL PLACE OF  
6 BUSINESS LICENSE AND WITHOUT THE APPROVAL OF THE EMPLOYING MORTGAGE BROKER OR  
7 MORTGAGE BANKER.

8 G. A LICENSE ISSUED PURSUANT TO THIS ARTICLE IS NOT TRANSFERABLE OR  
9 ASSIGNABLE.

10 6-991.04. Issuance of license; notice from employing mortgage  
11 broker or mortgage banker; renewal; inactive  
12 status; address change; fee

13 A. THE SUPERINTENDENT, ON DETERMINING THAT AN APPLICANT IS QUALIFIED  
14 AND HAS PAID THE REQUIRED FEES, SHALL ISSUE A LOAN ORIGINATOR'S LICENSE TO  
15 THE APPLICANT EVIDENCED BY A CONTINUOUS CERTIFICATE. THE SUPERINTENDENT  
16 SHALL GRANT OR DENY A LICENSE WITHIN ONE HUNDRED TWENTY DAYS AFTER RECEIVING  
17 THE COMPLETED APPLICATION AND FEES. AN APPLICANT WHO HAS BEEN DENIED A  
18 LICENSE MAY NOT REAPPLY FOR A LICENSE BEFORE ONE YEAR FROM THE DATE OF THE  
19 PREVIOUS APPLICATION.

20 B. ON ISSUANCE OF THE LICENSE, THE SUPERINTENDENT SHALL KEEP THE LOAN  
21 ORIGINATOR'S LICENSE UNTIL A MORTGAGE BROKER OR MORTGAGE BANKER LICENSED  
22 PURSUANT TO THIS CHAPTER EMPLOYS THE LOAN ORIGINATOR AND THE EMPLOYER  
23 PROVIDES A WRITTEN NOTICE THAT THE EMPLOYER HAS HIRED THE LOAN ORIGINATOR.  
24 THE EMPLOYER SHALL PROVIDE THE NOTICE BEFORE THE LOAN ORIGINATOR BEGINS  
25 WORKING FOR THE EMPLOYER. THE NOTICE SHALL BE FROM AN OFFICER OR OTHER  
26 PERSON AUTHORIZED BY THE EMPLOYER. THE NOTICE SHALL CONTAIN A REQUEST FOR  
27 THE LOAN ORIGINATOR'S LICENSE AND SHALL BE DATED, SIGNED AND NOTARIZED. ON  
28 RECEIPT OF THE REQUEST, THE SUPERINTENDENT SHALL FORWARD THE LOAN  
29 ORIGINATOR'S LICENSE TO THE EMPLOYING MORTGAGE BROKER OR MORTGAGE BANKER.

30 C. LICENSES SHALL BE ISSUED FOR A ONE YEAR PERIOD.

31 D. A LOAN ORIGINATOR SHALL MAKE APPLICATION FOR RENEWAL ON FORMS  
32 PRESCRIBED BY THE SUPERINTENDENT. THE APPLICATION SHALL INCLUDE ORIGINAL  
33 CERTIFICATES EVIDENCING THE LOAN ORIGINATOR'S SUCCESSFUL COMPLETION OF SIX  
34 CONTINUING EDUCATION UNITS DURING THE PRECEDING ONE YEAR PERIOD BY A  
35 CONTINUING EDUCATION PROVIDER APPROVED BY THE SUPERINTENDENT.

36 E. A LOAN ORIGINATOR SHALL PAY THE RENEWAL FEE EVERY YEAR ON OR BEFORE  
37 DECEMBER 31. LICENSES NOT RENEWED BY DECEMBER 31 ARE SUSPENDED AND THE  
38 LICENSEE SHALL NOT ACT AS A LOAN ORIGINATOR UNTIL THE LICENSE IS RENEWED OR A  
39 NEW LICENSE IS ISSUED PURSUANT TO THIS ARTICLE. A PERSON MAY RENEW A  
40 SUSPENDED LICENSE BY PAYING THE RENEWAL FEE PLUS A DOLLAR AMOUNT TO BE  
41 DETERMINED BY THE SUPERINTENDENT FOR EACH DAY AFTER DECEMBER 31 THAT A  
42 LICENSE RENEWAL FEE IS NOT RECEIVED BY THE SUPERINTENDENT.

43 F. LICENSES THAT ARE NOT RENEWED BY JANUARY 31 OF EACH YEAR EXPIRE. A  
44 LICENSE SHALL NOT BE GRANTED TO THE HOLDER OF AN EXPIRED LICENSE EXCEPT AS  
45 PROVIDED IN THIS ARTICLE FOR THE ISSUANCE OF AN ORIGINAL LICENSE.

1 G. FROM DECEMBER 1 THROUGH DECEMBER 31 OF EACH RENEWAL PERIOD, A  
2 LICENSEE MAY REQUEST INACTIVE STATUS FOR THE FOLLOWING LICENSE PERIOD. THE  
3 LICENSE SHALL BE PLACED ON INACTIVE STATUS AFTER THE LICENSEE PAYS TO THE  
4 SUPERINTENDENT THE INACTIVE STATUS RENEWAL FEE AND SURRENDERS THE LICENSE TO  
5 THE SUPERINTENDENT. DURING INACTIVE STATUS, AN INACTIVE LICENSEE SHALL NOT  
6 ACT AS A LOAN ORIGINATOR. A LICENSEE MAY NOT BE ON INACTIVE STATUS FOR MORE  
7 THAN TWO CONSECUTIVE RENEWAL PERIODS IN ANY TEN YEAR PERIOD. THE LICENSE  
8 EXPIRES IF THE LICENSEE VIOLATES THIS SUBSECTION.

9 H. AT RENEWAL AN INACTIVE LICENSEE MAY RETURN TO ACTIVE STATUS BY  
10 DOING ALL OF THE FOLLOWING:

11 1. PROVIDING THE SUPERINTENDENT WITH EVIDENCE THAT THE LICENSEE HAS  
12 MET THE REQUIREMENTS OF SECTION 6-991.03, SUBSECTION B.

13 2. MAKING A WRITTEN REQUEST TO THE SUPERINTENDENT FOR REACTIVATION.

14 3. PAYING THE ANNUAL LICENSING FEE.

15 4. PROVIDING THE SUPERINTENDENT WITH PROOF THAT THE LICENSEE MEETS ALL  
16 OTHER REQUIREMENTS FOR ACTING AS A LOAN ORIGINATOR.

17 I. THE EMPLOYING MORTGAGE BROKER OR MORTGAGE BANKER SHALL KEEP AND  
18 MAINTAIN AT THE PRINCIPAL PLACE OF BUSINESS IN THIS STATE THE LOAN  
19 ORIGINATOR'S LICENSE DURING THE LOAN ORIGINATOR'S EMPLOYMENT. A COPY OF THE  
20 LOAN ORIGINATOR'S LICENSE SHALL BE AVAILABLE FOR PUBLIC INSPECTION DURING  
21 REGULAR BUSINESS HOURS.

22 J. A LOAN ORIGINATOR SHALL IMMEDIATELY NOTIFY THE SUPERINTENDENT OF A  
23 CHANGE IN THE LOAN ORIGINATOR'S RESIDENCE ADDRESS. THE SUPERINTENDENT SHALL  
24 ENDORSE THE CHANGE OF ADDRESS ON THE LICENSE FOR A FEE TO BE DETERMINED BY  
25 THE SUPERINTENDENT.

26 K. WITHIN FIVE BUSINESS DAYS AFTER ANY LICENSEE'S EMPLOYMENT  
27 TERMINATION, THE EMPLOYING MORTGAGE BROKER OR MORTGAGE BANKER SHALL DO BOTH  
28 OF THE FOLLOWING:

29 1. NOTIFY THE SUPERINTENDENT OF THE LICENSEE'S TERMINATION.

30 2. RETURN THE LICENSE TO THE SUPERINTENDENT.

31 6-991.05. Denial, suspension or revocation of licenses

32 A. THE SUPERINTENDENT MAY DENY A LICENSE TO A PERSON OR SUSPEND OR  
33 REVOKE A LICENSE IF THE SUPERINTENDENT FINDS THAT AN APPLICANT OR LICENSEE:

34 1. IS NOT A PERSON OF HONESTY, TRUTHFULNESS OR GOOD CHARACTER.

35 2. HAS VIOLATED ANY LAW, RULE OR ORDER.

36 3. HAS BEEN CONVICTED IN ANY STATE OF A FELONY OR ANY CRIME OF BREACH  
37 OF TRUST OR DISHONESTY.

38 4. HAS HAD A FINAL JUDGMENT ENTERED AGAINST THE APPLICANT OR LICENSEE  
39 IN A CIVIL ACTION ON GROUNDS OF FRAUD, DECEIT OR MISREPRESENTATION, AND THE  
40 CONDUCT ON WHICH THE JUDGMENT IS BASED INDICATES THAT IT WOULD BE CONTRARY TO  
41 THE INTEREST OF THE PUBLIC TO PERMIT THE PERSON TO BE LICENSED.

42 5. HAS HAD AN ADMINISTRATIVE AGENCY OF THIS STATE, THE FEDERAL  
43 GOVERNMENT OR ANY OTHER STATE OR TERRITORY OF THE UNITED STATES ENTER AN  
44 ORDER AGAINST THE APPLICANT OR LICENSEE INVOLVING FRAUD, DECEIT OR  
45 MISREPRESENTATION, AND THE FACTS RELATING TO THE ORDER INDICATE THAT IT WOULD

1 BE CONTRARY TO THE INTEREST OF THE PUBLIC TO PERMIT THE PERSON TO BE  
2 LICENSED.

3 6. HAS MADE A MATERIAL MISSTATEMENT OR SUPPRESSED OR WITHHELD  
4 INFORMATION ON THE APPLICATION FOR A LICENSE OR ANY DOCUMENT REQUIRED TO BE  
5 FILED WITH THE SUPERINTENDENT.

6 B. IF A LICENSEE OR APPLICANT UNDER THIS ARTICLE IS INDICTED OR  
7 INFORMED AGAINST FOR FORGERY, EMBEZZLEMENT, OBTAINING MONEY UNDER FALSE  
8 PRETENSES, EXTORTION, CRIMINAL CONSPIRACY TO DEFRAUD OR A SIMILAR OFFENSE,  
9 AND A CERTIFIED COPY OF THE INDICTMENT OR INFORMATION OR OTHER PROPER  
10 EVIDENCE OF THE INDICTMENT OR INFORMATION IS FILED WITH THE SUPERINTENDENT,  
11 THE SUPERINTENDENT MAY SUSPEND THE LICENSE OR REFUSE TO GRANT A LICENSE TO AN  
12 APPLICANT PENDING TRIAL ON THE INDICTMENT.

13 6-991.06. Loan originator examination committee; membership

14 A. THE SUPERINTENDENT SHALL ESTABLISH A LOAN ORIGINATOR EXAMINATION  
15 COMMITTEE TO ESTABLISH AND PERIODICALLY UPDATE STANDARDS FOR PASSING AN  
16 EXAMINATION FOR LOAN ORIGINATORS.

17 B. THE COMMITTEE SHALL CONSIST OF FIVE MEMBERS WHO ARE APPOINTED BY  
18 THE SUPERINTENDENT. THE MEMBERS SHALL SERVE STAGGERED TWO YEAR TERMS. FOUR  
19 OF THE MEMBERS SHALL BE MORTGAGE BROKER LICENSEES AND SHALL BE APPOINTED FROM  
20 NOMINATIONS SUBMITTED BY MORTGAGE BROKER LICENSEES. ONE OF THE MEMBERS SHALL  
21 BE AN EMPLOYEE OF THE DEPARTMENT. THE COMMITTEE SHALL ELECT A CHAIRPERSON.

22 C. LICENSEES WHO SERVE AS MEMBERS OF THE COMMITTEE SHALL NOT RECEIVE  
23 COMPENSATION.

24 6-991.07. Examination; fee; definition

25 A. EACH APPLICANT FOR AN ORIGINAL LOAN ORIGINATOR LICENSE, BEFORE  
26 ISSUANCE OF THE LICENSE, SHALL TAKE AND PASS AN EXAMINATION GIVEN UNDER THE  
27 SUPERVISION OF THE DEPARTMENT. THE EXAMINATION MUST REASONABLY EXAMINE THE  
28 APPLICANT'S KNOWLEDGE OF ALL OF THE FOLLOWING:

- 29 1. THE OBLIGATIONS BETWEEN PRINCIPAL AND AGENT.
- 30 2. THE APPLICABLE CANONS OF BUSINESS ETHICS.
- 31 3. THIS ARTICLE AND THE RULES ADOPTED UNDER THIS ARTICLE.
- 32 4. THE ARITHMETICAL COMPUTATIONS COMMON TO MORTGAGE BROKERAGE.
- 33 5. THE PRINCIPLES OF REAL ESTATE LENDING.
- 34 6. THE GENERAL PURPOSES AND LEGAL EFFECT OF MORTGAGES, DEEDS OF TRUST  
35 AND SECURITY AGREEMENTS.

36 7. THE TERMS AND CONDITIONS OF CONFORMING AND NONCONFORMING  
37 RESIDENTIAL MORTGAGE PRODUCTS.

38 B. THE EXAMINATION IS SUBJECT TO THE SUPERINTENDENT'S APPROVAL.

39 C. THE DEPARTMENT SHALL SUPERVISE THE ADMINISTRATION OF THE  
40 EXAMINATION TO APPLICANTS FOR LICENSES AT LEAST ONCE EVERY SIX MONTHS. THE  
41 DEPARTMENT SHALL REASONABLY PRESCRIBE THE TIME, PLACE AND CONDUCT OF  
42 EXAMINATIONS AND COLLECT A FEE IN AN AMOUNT TO BE DETERMINED BY THE  
43 SUPERINTENDENT FOR ADMINISTRATION OF THE EXAMINATION TO BE ASSESSED TO ALL  
44 PERSONS TAKING THE EXAMINATION. THE TEST MAY BE GIVEN IN EITHER WRITTEN OR  
45 ELECTRONIC FORMAT.

1 D. AN APPLICANT MAY NOT TAKE THE EXAMINATION MORE THAN TWO TIMES  
2 WITHIN A TWELVE MONTH PERIOD.

3 E. ALL EXAMINATIONS SHALL BE GIVEN, CONDUCTED AND GRADED IN A FAIR AND  
4 IMPARTIAL MANNER AND WITHOUT UNFAIR DISCRIMINATION BETWEEN INDIVIDUALS  
5 EXAMINED. THE COMMITTEE SHALL INFORM THE APPLICANT OF THE RESULT OF THE  
6 EXAMINATION WITHIN THIRTY DAYS OF THE EXAMINATION.

7 F. THE SUPERINTENDENT SHALL DETERMINE THE FEE FOR EACH EXAMINATION.

8 G. FOR THE PURPOSES OF THIS SECTION, "APPLICANT" MEANS A PERSON WHO  
9 HAS SUBMITTED A COMPLETED APPLICATION IN THE FORM PRESCRIBED BY THE  
10 SUPERINTENDENT.

11 6-991.08. Noncompliance not to affect validity of loan

12 FAILURE TO COMPLY WITH THIS ARTICLE DOES NOT AFFECT THE VALIDITY OR  
13 ENFORCEABILITY OF ANY DEBT, MORTGAGE, DEED OF TRUST OR ANY OTHER LIEN  
14 INTEREST ON REAL ESTATE. A PERSON ACQUIRING A MORTGAGE LOAN OR ANY INTEREST  
15 IN A MORTGAGE LOAN AS MORTGAGEE OR BENEFICIARY OR AS AN ASSIGNEE, HOLDER OR  
16 TRANSFEREE OR AS A PLEDGEE OR THE HOLDER OF A SECURITY INTEREST IS NOT  
17 REQUIRED TO ASCERTAIN WHETHER A VIOLATION OF THIS ARTICLE HAS OCCURRED.

18 Sec. 9. Initial terms of members of the loan originator  
19 examination committee

20 A. Notwithstanding section 6-991.06, Arizona Revised Statutes, as  
21 added by this act, the initial terms of the members of the loan originator  
22 examination committee are:

- 23 1. One term ending January 15, 2010.
- 24 2. Two terms ending January 15, 2011.
- 25 3. Two terms ending January 15, 2012.

26 B. The superintendent shall make all subsequent appointments as  
27 prescribed by statute.